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Attorneys for the United States of America

**IN THE UNITED STATES DISTRICT COURT FOR THE
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION**

VICKI R. SEIDEL,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

NO. C-07-3141-JF

**DECLARATION OF DAVID L. DENIER
 IN SUPPORT OF MOTION FOR
SUMMARY JUDGMENT**

I, DAVID L. DENIER, pursuant to 28 U.S.C. § 1746, declare and state as follows:

1. I am a member of the bar of this Court, a duly-appointed Assistant United States Attorney for the Northern District of California, and an officer of this Court, with office as above shown, and I am an attorney appearing of record for the United States in the above-entitled action.

2. Attached hereto are true and correct copies of the following documents:

<u>Exhibit</u>	<u>Description</u>
9	Certificate of Assessments and Payments for Thomas E. Seidel covering the Trust Fund Recovery Penalty for the period ending September 30, 1996.
10	Thomas E. Seidel's consent to the assessment and collection of the Trust Fund Recovery Penalty executed October 30, 1996.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 28th day of February, 2008, at San Francisco, California.

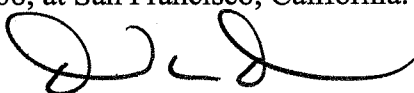

 DAVID L. DENIER

EXHIBIT 9

United States



of America

**Department of the Treasury
Internal Revenue Service**

Date: August 9, 2007

CERTIFICATE OF OFFICIAL RECORD

I certify that the annexed: is a true Form 4340, Certificate of Assessments, Payments, and Other Specified Matters for Thomas E. Seidel, Social Security Number: 527-94-9700, covering Civil Penalty for the period ending September 30, 1996

under the custody of this office.

IN WITNESS WHEREOF, I have hereunto set my hand,
and caused the seal of this office to be affixed, on the day
and year first above written.

By direction of the Secretary of the Treasury:

A handwritten signature in black ink, appearing to read "David R. Martin".

David R. Martin
Chief, Accounting Operations



 CERTIFICATE OF ASSESSMENTS, PAYMENTS, AND OTHER SPECIFIED MATTERS

THOMAS E SEIDEL

EIN/SSN: 527-94-9700

TYPE OF TAX: CIVIL PENALTY

FORM: CVPN TAX PERIOD: SEPT 1996

DATE	EXPLANATION OF TRANSACTION	ASSESSMENT, OTHER DEBITS (REVERSAL)	PAYMENT, CREDIT (REVERSAL)	ASSESSMENT DATE (23C, RAC 006)

12-09-1996 FEES AND COLLECTION COSTS

26.00

PROMPT ASSESSMENT
 IRC 6672 - TRUST FUND
 RECOVERY PENALTY
 77251-297-14900-6

601,251.24

10-23-1996

PROMPT ASSESSMENT
 77251-297-14900-6

0.00

10-23-1996

INTEREST ASSESSED
 19964908

8,036.12

12-16-1996

10-23-1996 XREF 100% PENALTY
 941 199503
 77-0278294

10-23-1996 XREF 100% PENALTY
 941 199406
 77-0278294

10-23-1996 XREF 100% PENALTY
 941 199409
 77-0278294

10-23-1996 XREF 100% PENALTY
 941 199609
 77-0278294

FORM 4340 (REV. 01-2002)

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 CERTIFICATE OF ASSESSMENTS, PAYMENTS, AND OTHER SPECIFIED MATTERS

THOMAS E SEIDEL

EIN/SSN: 527-94-9700

TYPE OF TAX: CIVIL PENALTY

FORM: CVPN TAX PERIOD: SEPT 1996

DATE	EXPLANATION OF TRANSACTION	ASSESSMENT, OTHER DEBITS (REVERSAL)	PAYMENT, CREDIT (REVERSAL)	ASSESSMENT DATE (23C, RAC 006)
10-23-1996	XREF 100% PENALTY 941 199606 77-0278294			
10-23-1996	XREF 100% PENALTY 941 199603 77-0278294			
10-23-1996	XREF 100% PENALTY 941 199312 77-0278294			
10-23-1996	XREF 100% PENALTY 941 199506 77-0278294			
10-23-1996	XREF 100% PENALTY 941 199412 77-0278294			
10-23-1996	XREF 100% PENALTY 941 199403 77-0278294			
10-23-1996	XREF 100% PENALTY 941 199509 77-0278294			
04-15-1997	OVERPAID CREDIT APPLIED 1040 199612		3,981.00	

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CERTIFICATE OF ASSESSMENTS, PAYMENTS, AND OTHER SPECIFIED MATTERS

THOMAS E SEIDEL

EIN/SSN: 527-94-9700

TYPE OF TAX: CIVIL PENALTY

FORM: CVPN TAX PERIOD: SEPT 1996

DATE	EXPLANATION OF TRANSACTION	ASSESSMENT, OTHER DEBITS (REVERSAL)	PAYMENT, CREDIT (REVERSAL)	ASSESSMENT DATE (23C, RAC 006)
10-23-1996	OVERPAID CREDIT APPLIED 1040 199512		1,400.00	
10-23-1996	INTEREST OVERPAYMENT CREDIT 1040 199512		56.66	
04-30-1996	OVERPAID CREDIT APPLIED 941 199603 77-0382210		1,506.71	
07-28-2000	FEDERAL TAX LIEN			
08-04-2000	FEDERAL TAX LIEN			
08-28-2000	FEES AND COLLECTION COSTS		6.00	
08-24-2000	INTENT TO LEVY COLLECTION DUE PROCESS NOTICE LEVY NOTICE ISSUED			
08-28-2000	INTENT TO LEVY COLLECTION DUE PROCESS NOTICE RETURN RECEIPT SIGNED			
10-19-2000	OFFER IN COMPROMISE PENDING			
11-24-2000	FEDERAL TAX LIEN			

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 CERTIFICATE OF ASSESSMENTS, PAYMENTS, AND OTHER SPECIFIED MATTERS

THOMAS E SEIDEL

EIN/SSN: 527-94-9700

TYPE OF TAX: CIVIL PENALTY

FORM: CVPN TAX PERIOD: SEPT 1996

DATE	EXPLANATION OF TRANSACTION	ASSESSMENT, OTHER DEBITS (REVERSAL)	PAYMENT, CREDIT (REVERSAL)	ASSESSMENT DATE (23C, RAC 006)
12-18-2000	FEES AND COLLECTION COSTS		6.00	
04-15-2001	OVERPAID CREDIT APPLIED 1040 200012		1,228.00	
07-23-2001	OVERPAID CREDIT APPLIED 1040 200012		300.00	
04-15-2002	OVERPAID CREDIT APPLIED 1040 200112		4,956.00	
04-14-2003	OVERPAID CREDIT APPLIED 1040 200212		996.00	
04-02-2003	OFFER IN COMPROMISE REJECTED			
05-05-2003	SUBSEQUENT PAYMENT LEVY		4,011.87	
04-28-2003	SUBSEQUENT PAYMENT LEVY		41,007.32	
11-16-2004	SUBSEQUENT PAYMENT FEDERAL TAX LIEN		161,334.55	
10-25-1996	FEDERAL TAX LIEN			
03-07-2005	SUBSEQUENT PAYMENT FEDERAL TAX LIEN		143.90	

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CERTIFICATE OF ASSESSMENTS, PAYMENTS, AND OTHER SPECIFIED MATTERS

THOMAS E SEIDEL

EIN/SSN: 527-94-9700

TYPE OF TAX: CIVIL PENALTY

FORM: CVPN TAX PERIOD: SEPT 1996

DATE	EXPLANATION OF TRANSACTION	ASSESSMENT, OTHER DEBITS (REVERSAL)	PAYMENT, CREDIT (REVERSAL)	ASSESSMENT DATE (23C, RAC 006)
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04-15-2005	OVERPAID CREDIT APPLIED		6.00	
	1040 200412			

06-27-2006 RECEIVED POA/TIA

11-24-2006 FEDERAL TAX LIEN

02-26-2007 UPDATED POA/TIA

10-23-1996 Statutory Notice of Balance Due

04-21-2003 Statutory Notice of Intent to Levy

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CERTIFICATE OF ASSESSMENTS, PAYMENTS, AND OTHER SPECIFIED MATTERS

THOMAS E SEIDEL

EIN/SSN: 527-94-9700

TYPE OF TAX: CIVIL PENALTY

FORM: CVPN TAX PERIOD: SEPT 1996

BALANCE 388,397.35

I CERTIFY THAT THE FOREGOING TRANSCRIPT OF THE TAXPAYER NAMED ABOVE IN RESPECT TO THE TAXES SPECIFIED IS A TRUE AND COMPLETE TRANSCRIPT FOR THE PERIOD STATED, AND ALL ASSESSMENTS, ABATEMENTS, CREDITS, REFUNDS, AND ADVANCE OR UNIDENTIFIED PAYMENTS, AND THE ASSESSED BALANCE RELATING THERETO, AS DISCLOSED BY THE RECORDS OF THIS OFFICE AS OF THE ACCOUNT STATUS DATE ARE SHOWN THEREIN. I FURTHER CERTIFY THAT THE OTHER SPECIFIED MATTERS SET FORTH IN THIS TRANSCRIPT APPEAR IN THE OFFICIAL RECORDS OF THE INTERNAL REVENUE SERVICE.

SIGNATURE OF CERTIFYING OFFICER: 

David R. Martin

PRINT NAME: _____

Chief, Accounting Operations

TITLE: _____

WI-11-5

DELEGATION ORDER: _____

LOCATION: INTERNAL REVENUE SERVICE

ACCOUNT STATUS DATE 07/20/2007

EXHIBIT 10

Form **2751**
(Rev. February 1993)

Department of the Treasury-Internal Revenue Service

Proposed Assessment of Trust Fund Recovery Penalty

(Sec. 6672, Internal Revenue Code, or corresponding provisions of prior internal revenue laws)

Report of Business's Unpaid Tax LiabilityName and address of business **T.E. SEIDEL ELECTRIC, INC.**
1319 BURTON AVE
SALINAS, CA. 93901

Tax Return Form No.	Tax Period Ended	Date Return Filed	Date Tax Assessed	Identifying Number	Amount Outstanding	Penalty
941	12-31-93	01-31-94	03-21-94	77-0278294	\$ 37,440.36	\$ 38,136.17
941	03-31-94	04-30-94	06-27-94	77-0278294	50,150.00	42,999.98
941	06-30-94	07-31-94	09-26-94	77-0278294	55,251.29	50,000.76
941	09-30-94	10-31-94	12-26-94	77-0278294	31,111.49	25,019.30
941	12-31-94	02-23-95	03-27-95	77-0278294	55,634.06	52,988.31
941	03-31-95	04-30-95	07-03-95	77-0278294	91,012.63	79,999.98
941	06-30-95	07-31-95	09-18-95	77-0278294	113,676.90	99,999.98

Total Penalty \$ SEE PAGE 2

Agreement to Assessment and Collection of Trust Fund Recovery Penalty

Name, address, and social security number of person responsible

THOMAS SEIDEL, 25360 BOOTS RD, MONTEREY, CA. 93940

527-94-9700

I consent to the assessment and collection of the total penalty shown, which is equal either to the amount of Federal employment taxes withheld from employees wages or to the amount of Federal excise taxes collected from patrons or members, and which was not paid over to the Government by the business named above; and I waive the privilege of filing a claim for abatement after assessment.

Signature of person responsible

Date

10/30/96

Part 1-This copy to be signed and returned to Internal Revenue Service

Form **2751** (Rev. 2-93)
Cat. No. 21955U

Form **2751**
(Rev. February 1993)

Department of the Treasury-Internal Revenue Service

Proposed Assessment of Trust Fund Recovery Penalty

(Sec. 6672, Internal Revenue Code, or corresponding provisions of prior internal revenue laws)

Report of Business's Unpaid Tax LiabilityName and address of business **T.E. SEIDEL ELECTRIC, INC.**
1319 BURTON AVE, SALINAS, CA. 93901

Tax Return Form No.	Tax Period Ended	Date Return Filed	Date Tax Assessed	Identifying Number	Amount Outstanding	Penalty
941	09-30-95	03-06-96	04-08-96	77-0278294	\$ 238,103.32	\$ 157,689.25
941	03-31-96	04-30-96	06-24-96	77-0278294	5,869.54	892.84
941	06-30-96	10-23-96	10-23-96	77-0278294	0	45,645.11
941	09-30-96	10-23-96	10-23-96	77-0278294	0	7,879.56
Total Penalty						\$ 601,251.24

Agreement to Assessment and Collection of Trust Fund Recovery PenaltyName, address, and social security number of person responsible
THOMAS SEIDEL, 25360 BOOTS RD, MONTEREY, CA. 93940 **527-94-9700**

I consent to the assessment and collection of the total penalty shown, which is equal either to the amount of Federal employment taxes withheld from employees wages or to the amount of Federal excise taxes collected from patrons or members, and which was not paid over to the Government by the business named above; and I waive the privilege of filing a claim for abatement after assessment.

Signature of person responsible

Date

10/30/96

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